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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6110 OF 2007

Office Notes, Office Memoranda of : coram, appearances, Court's Orders: or directions and Registrar Orders:	Court's or Judge's orders

Mr.R.K. Mendadkar with Ms.H.K. Mandlik for the petitioner.

Mr.R.D. Rane, Government Pleader, for the reespondents.

CORAM : S.B. MHASE &
D.G. KARNIK, JJ.

DATE : 20TH SEPTEMBER 2007

P.C. :

1. Rule, returnable forthwith.

2. By consent, called out for hearing.

3. By this petition, the petitioner challenges the order dated 17th March 2007 passed by the Divisional Caste Scrutiny Committee No.2, Konkan Bhavan rejecting the petitioner's claim that she belongs to Vaishya Wani caste and invalidating her caste certificate.

4. Main grievance of the petitioner

is that the Scrutiny Committee did not follow the procedure laid down by the Supreme Court in the case of **Kumari Madhuri Patil v. Addl. Commissioner, Tribal Development, reported in AIR 1995 SC 94**. The Scrutiny Committee ought to have called for the report of the Vigilance Cell and given an opportunity to the petitioner of being heard in the matter. In the present case, the report of the Vigilance Cell was not called for, vigilance enquiry was not held and the claim has been rejected without the vigilance enquiry.

5. Mr.Rane, Government Pleader for the respondents, fairly conceded that the report of the Vigilance Cell was not called for and, therefore, the matter is required to be remanded. Submission is accepted.

6. In the circumstances, the writ petition is allowed, impugned order is set aside and the matter is remanded back to the Scrutiny Committee (respondent no.2.) for deciding the matter afresh after calling for the

vigilance report and giving an opportunity to the petitioner of being heard in the matter.

7. Rule is made absolute as above.

(D.G. KARNIK, J.) (S.B. MHASE, J.)